

### III. REMARKS

#### Status of the Claims

Claims 15 and 17 are amended. Claims 15-22 are presented for further consideration.

#### Summary of the Office Action

Claims 15-22 stand rejected under 35USC 101 as directed to non-statutory subject matter and further under 35USC112 as indefinite.

Claims 15-22 stand rejected under 35USC102(e) on the basis of the cited reference Flitcroft, et al, U.S. Patent No. 6,636,833. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

Applicant has amended independent claim 15 to define a system of computer elements interconnected for processing purchase transaction information wherein the processing of the purchase transaction information results in a complete purchase transaction. As a result of these amendments, claim 15 defines statutory subject matter in that it specifies hardware components that utilize a data structure to permit the functionality of the data structure to be realized. Accordingly, Applicant submits that the claim rejections under 35USC 101 and 35USC112 are fully met by the amendments to the claims submitted above.

Applicant has amended the claims to clarify the novel features of the invention for which protection is sought in this application. These amendments are submitted after final rejection in order to place the claims in condition for allowance or in the alternative to place the claims in better condition for appeal. The Examiner

is requested to exercise her discretion and enter these amendments.

In rejecting the claims, the examiner has cited, for the first time, the reference Flitcroft as a basis for the anticipation rejections. The citation of this new reference was not necessitated by Applicant's prior amendments and accordingly the issuing of final rejection is improper under MPEP section 706.07(c) where it is stated:

"While the rules no longer give to an applicant the right to "amend as often as the examiner presents new references or reasons for rejection," present practice does not sanction hasty and ill-considered final rejections. The applicant, who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application."

The Examiner is respectfully requested to reconsider the final nature of the pending office action and his rejection in view of the above amendments and the following arguments. The entering of the above amendments will permit the clarification of the issues for appeal or the allowance of the claims.

#### The Invention

Independent claims 15, as amended, defines a computer based system for conducting online purchase transactions over the Internet between a merchant and a customer of said merchant. The customer and merchant employ independent links to communicate information to a financial server that receives, stores and processes the account information and transaction information required to process a particular transaction. This is accomplished during the transaction in real time.

The teaching of this application envisions a consortium of customers and merchants as members of a "trusted" financial service provider. The object of the consortium is to keep the digital identity of the customer from the vendor and the digital identity of the vendor from an eavesdropper. The "trusted" financial provider is the only entity that can tie the customer and merchant together and acknowledge a valid transaction and do a direct transfer of funds from the customer account to the merchant account and vice versa. The basic backup security concept here is that after the online purchase is made, the "trusted" financial provider asks the customer to confirm by entering a pass code that only the customer and the "trusted" financial provider know. .

The cited reference involves only a payment transaction after a purchase transaction is complete. It teaches the functionality of single use credit card numbers as a subset of a master card. These subset numbers, applicable for a single transaction, require that every new transaction must call upon a new subnumber. The system of Flitcroft does not communicate independently with both the customer and the merchant during a purchase transaction. The system of Flitcroft involves a payment transaction after a transaction is completed. It is initiated by swiping a credit card at a merchant location or by other similar point of sale systems.

#### Discussion of the Cited Reference

The Examiner has now cited the reference Flitcroft in support of the rejection based on anticipation. This reference describes a system in which limited use credit card numbers are issued from a central processor to enhance the security of a customer's account

information which otherwise may be exposed in an Internet transaction. In this system a customer is assigned a master account number to which is assigned so called limited use credit card numbers. Only the limited use numbers are used in a transaction, thereby avoiding exposure of the master account number.

The processing of a payment transaction is according to standard credit card practice where the customer selects merchandise and offers a credit card for payment (see column 9, lines 40-63). There is no teaching of a system for accomplishing an Internet transaction using an independent financial server to which both consumer and merchant subscribe as in the subject invention. In the system of Flitcroft, there is a communication link via the Internet to a payment server from the merchant, the customer is a passive participant that requires no similar communications link to complete a transaction, as in the system of this invention.

Accordingly the teaching of Flitcroft does not support the rejection based on anticipation.

#### The Issue of Anticipation

It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier. Under this analysis, it is observed that system of Flitcroft is lacking first and second communication

link independently linking merchant and financial server, and customer and financial server.

Claim 15 states:

"wherein said merchant host computer processes a purchase transaction by transmitting said purchase transaction information via a first communication link through said Internet access server between said merchant host computer and said financial server;.....

further wherein said customer computer terminal completes said purchase transaction by transmitting an acceptance of said purchase transaction information via a second communication link through said Internet access server between said customer computer terminal and said financial server."

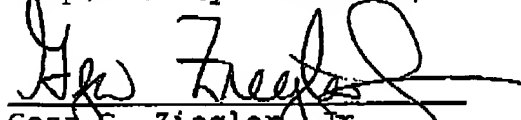
Since these elements form no part of the system of Flitcroft, there would be no infringement, if Flitcroft was later, therefore, the cited reference Flitcroft does not support the rejection by the Examiner based on anticipation.

The above arguments are equally applicable to the rejected dependent claims 6-22.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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4 JAN 2005

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